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15  
16 **UNITED STATES DISTRICT COURT**  
17  
18 **DISTRICT OF NEVADA**

19 KEEHAN TENNESSEE INVESTMENTS,  
20 LLC, et al.,

21 Plaintiffs,

22 vs.

23 GUARDIAN CAPITAL ADVISORS, INC.,  
24 et al.,

Defendants.

CASE NO. 3:14-cv-00500-RCJ-WGC

JUDGE ROBERT C. JONES

MAGISTRATE JUDGE WILLIAM G.  
COBB

**OPPOSITION OF DEFENDANT  
GUARDIAN TO PLAINTIFFS'  
MOTION TO REMAND TO LORAIN  
COUNTY, OHIO**

25  
26 Defendants Guardian Capital Advisors, Inc. and Kenneth Miller (collectively,  
27 "Guardian"), hereby oppose Plaintiffs' Motion to Remand this case to the Court of Common  
28 Pleas in Lorain County, Ohio.

1 Plaintiffs are barred from litigating in Ohio under the parties' "Loan Commitment Term  
 2 Sheet," which provides: "The parties acknowledge and consent to the exclusive jurisdiction of  
 3 any competent court in Reno, Nevada . . . [for] all matters arising out of or related [to] . . . [t]his  
 4 Term Sheet and the Loan Documents." (Am. Compl. Ex. A-2, ECF# 11-2 (emphasis added).)

5 The Supreme Court has unanimously ruled that "a forum-selection clause"—like this  
 6 one—must "be given controlling weight in all but the most exceptional cases." *Atlantic Marine*  
 7 *Constr. Co., Inc. v. United States Dist. Court for Western Dist. of Texas*, -- U.S. ---, 134 S.Ct.  
 8 568, 579 (2013) (quotations omitted). "When parties agree to a forum-selection clause, they  
 9 waive the right to challenge the preselected forum as inconvenient or less convenient for  
 10 themselves or their witnesses, or for their pursuit of the litigation." Id. at 582. Thus, "forum-  
 11 selection clauses should control except in unusual cases." Id.

12 Thus, while remand for lack of subject-matter jurisdiction to the Court from which the  
 13 case was removed may ordinarily be appropriate, the Plaintiffs here have waived their right to  
 14 litigate this dispute in Ohio state court. Accordingly, the Court should deny Plaintiffs' motion to  
 15 remand to Lorain County, Ohio.

16 DATED this 25<sup>th</sup> day of March, 2015.

17 **KOLESAR & LEATHAM**

18 By   
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## **CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of Kolesar & Leatham and that on the 25 day  
of March, 2015, I caused to be served a true and correct copy of foregoing **OPPOSITION OF**  
**DEFENDANT GUARDIAN TO PLAINTIFFS' MOTION TO REMAND TO LORAIN**  
**COUNTY, OHIO** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Rule 5-4 of the Local Rules of Civil Practice of the United States District Court for the District of Nevada, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by that Court's facilities.

Christopher Colucci  
An Employee of KOLESAR & LEATHAM

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